

# In the United States Court of Federal Claims

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K-MAR INDUSTRIES, INC.,

*Plaintiff,*

v.

THE UNITED STATES,

*Defendant,*

and

FIVE RIVER SERVICES, LLC,

*Defendant-Intervenor.*

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Case No. 08-877C

Senior Judge Smith

Filed: September 30, 2009

## ORDER

After oral argument and careful consideration, the Court hereby **DENIES** Plaintiff K-MAR Industries' (KMI) Motion for Limited Discovery and Admission of Evidence in support of their motion for summary judgment or, in the alternative, to supplement the administrative record.

Generally in a bid protest case, "the parties' ability to supplement the administrative record is limited." *Axiom Res. Mgmt. v. United States*, 564 F.3d 1374, 1379 (Fed. Cir. 2009). In these cases, "the focal point for judicial review should be the administrative record already in existence, not some new record made initially in the reviewing court." *Id.* (quoting *Camp v. Pitts*, 411 U.S. 138, 142 (1973)). Thus, when faced with a motion to supplement the administrative record, the court must ascertain whether the supplementation is "necessary" for "effective judicial review." *Id.* at 1381 (quoting *Camp*, 411 U.S. at 142-43).

Here, KMI offers the affidavits of James E. Williams and Bruce Vincent, Vice President and Project Manager of KMI, respectively. KMI also requests a telephone deposition of Five Rivers' Program Manager Doug Spinks. Collectively, these requests for limited discovery and the admission of affidavits are offered in order to: (1) present previously unavailable evidence; (2) assist the Court's understanding of complex issues involved in the case; and (3) to clear up any lingering hearsay issues.

However, because the Court finds that the administrative record below is clear and the additional affidavits and deposition request are not necessary for effective judicial review, the Court hereby **DENIES** Plaintiff's Motion for Limited Discovery and Admission of Evidence.

**It is so ORDERED.**

s/ Loren A. Smith  
LOREN A. SMITH,  
SENIOR JUDGE